

MINUTES OF MEETING

HOOVER PLANNING AND ZONING COMMISSION

Date: February 8, 2016
Time: 5:30 PM
Place: Hoover Municipal Center
Present: Mr. Mike Wood, Chairman
Mr. Kelly Bakane
Mr. Allen Pate
Mr. Carl West
Mr. Sammy Harris
Mr. John Lyda
Mr. Mark Schroeter
Mr. Scott Underwood

Also Present: Mr. Bob House, House Consultants
Mr. Rod Long, City Engineer
Mr. Chris Reeves, Assistant City Engineer
Mr. Duke Moore, Fire Marshal
Mr. Don Reilly, Director, Building Inspections
Ms. Leslie Klasing, City Attorney Staff

1. CALL TO ORDER

The meeting was called to order by Mr. Wood and the secretary had roll call at this time.

2. Mr. Wood asked Mr. Sammy Harris to give the invocation.
3. Mr. Wood asked Mr. Bakane to lead in the Pledge of Allegiance.
4. Mr. Wood stated the members of the Commission had been given copies of the regular meeting minutes of the January 11, 2016, meeting and asked for a motion concerning these minutes if there were no corrections or additions to be made. Mr. Lyda made a motion to approve the minutes as presented. Mr. Underwood seconded the motion and the motion carried unanimously.
5. Mr. Wood announced the following case, previously continued from the January 11, 2016, meeting, **had just been officially withdrawn by the applicant.** Mr. Wood stated if the applicant wanted to present this case again, they would have to make a new application which would require the city to send out new notices. Mr. Wood stated if a resident received a notice for this case this time, they should receive a notice for next time. Mr. Wood asked if there were any questions regarding what he just explained. There were none.

S-0116-02 - Mr. Billy Silver, USS Real Estate, is requesting **Preliminary Plat** approval for

Lake Wilborn- Phase 1, a proposed 10 lot subdivision located at the end of Stadium Trace Parkway in Trace Crossings. The property is owned by USS Real Estate and is zoned PUD PR-1 (Planned Single Family District).

Engineering Comments: Plan revisions not received. Recommend continuance.

6. REQUESTS FOR PRELIMINARY AND/OR FINAL MAP APPROVAL:

Mr. Wood explained he would read the following subdivision cases and verified the Planning Commission had had an opportunity to review each one during the pre-meeting work session and get any questions they had answered. He asked if anyone had a question or comment to please raise their hand and that case would be moved to the end of the agenda, and the other cases would be voted on as a block. The cases presented for block vote were as follows:

- (a) **S-0216-05** -Marty Byrom, Byrom Building Corporation, is requesting **Final Map** approval for **Southlake Park – Phase V**. The purpose of this plat is to add Building 5500. The property is owned by Southlake Park Partners, LLC, and is zoned C-P (Preferred Commercial (Office) District).

Approved

Engineering Comments: Recommend approval.

Mr. Wood asked who was present to represent this case. Mr. Bart Carr, Carr & Associates, was present. Mr. Wood asked if there were any comments on this case. There were none.

- (b) **S-0216-06** – Jane W. Fickling is requesting **Final Plat** approval for **Bluff Ridge Survey** for property located at 538 Shades Crest Road. The purpose of this survey is to subdivide one lot into three lots. Jane Fickling and Frances Hultquist are the property owners and the property is zoned E-2 (Single Family Estate District).

Approved

Engineering Comments: Recommend approval contingent upon the applicant acquiring required signature from Jefferson County Environmental Services and returning signed final plat to the City Clerk.

Mr. Wood asked who was present to represent this case. Mr. Ronnie Morton was present to represent the case. Mr. Wood asked him if he understood about the signatures on the mylar. He stated he understood. Mr. Wood asked if there were any questions on this case. Ms. Debra Laken, 542 Shades Crest Road, stepped to the podium to say she lived next door to the property and wanted to ask a question about how far their setback would be. She stated this particular property was all rock and a lot of people were concerned about where the setback would be. Mr. Rod Long, City Engineer, stated the adjacent properties were about a 15 foot setback so these properties would be required to have at least the same setback as the adjacent properties.

Mr. Wood added an explanation, too, to say if you had a house on one side and a house on the other side, these houses could not be built in front of or aligned between the two. Mr. Wood stated that is how they establish the setback line. Mr. Wood asked if that answered Ms. Laken's question. She answered her house was setback about 50 feet from the middle of the street. Mr. Long stated the setback was measured from the right-of-way line, not from the edge of the street.

Mr. Don Reilly, Director of Building Inspections, stated there was a 50 foot setback for E-2 Estate District zoning, but all the houses along Shades Crest Road, because of the bluff, could not meet the 50 foot setback. He stated what they would do on these houses would be to take the house to the right and the house to the left and draw an imaginary line right there, and the front of that house could not be any further towards the road than the other two houses. Mr. Reilly stated this way they should line up approximately with Ms. Laken's house.

Ms. Laken added she had another question regarding blasting. Mr. Reilly stated what he understood they were going to was to build a pier to come up on the houses and all the septic was going to be further down the hill, so there shouldn't be any blasting, however, he couldn't say that for sure. Ms. Laken stated the blasting could really tear up their foundation. She asked the minimum square footage that they were allowed to build. Mr. Reilly answered he thought it was 2,000 square feet. Ms. Laken asked what the height restriction was. Mr. Reilly answered it was 35 feet.

Mr. Wood asked if there were any other questions on either of those two cases. There were none. Mr. Wood asked for a motion. Mr. Lyda made a motion to approve. Mr. Bakane seconded the motion. On voice vote, the motion was approved unanimously.

7. **C-0216-02** – Ed & Barbara Randle are requesting **Conditional Use** approval for their property located at **2255 Tyler Road** (a/k/a The Hoover House) to be used as a wedding venue, a place for corporate meetings and other similar social functions. Mr. and Mrs. Randle are the property owners and the property is zoned R-1 (Single Family Residential).
Continued

Mr. Wood asked who was present to represent this case. Mr. Ed Randle, 2255 Tyler Road, stepped to the podium to represent this case. Mr. Randle stated he and his wife, Barbara, purchased the Hoover/Randle House 29 (twenty-nine) years ago. He stated they did it partially to preserve the house because when they checked into the possibilities, it had been for sale for a number of years, but nobody had been interested in buying it. Mr. Randle stated the Hoover family, at that time, began to develop plans to develop the property, which they were told would involve tearing the house down.

Mr. Randle stated he and his wife had been looking for a home. They at that time lived in Hoover. He stated they made quite an addition to the house, going from a little less than 3,000 square feet to about 8,000 square feet. He stated they built it primarily for their very large family and in addition to that, they had an extended family of associates with their business and from time to time, they had gatherings with them. He stated again they had been there 29 years. Mr. Randle stated they would love to think they had preserved the house. He stated very soon after they purchased it, the Historical Society came and had it registered and they felt like it was a treasure that needed to be preserved for the register and the community.

Mr. Randle stated he and his wife had made a decision to down size and had begun to explore the possibilities of preserving the house. Mr. Randle stated he had spoken with Eddie Aldridge, who had gone through a similar situation with his property that is known today as Aldridge Gardens. Mr. Randle stated that Mr. Aldridge encouraged them to take a look at some possibilities of preserving the house.

Mr. Randle stated they had done this and quite frankly, this idea was not being done for the commercial events because they had all the businesses they needed. He stated this was once again, 29 years later, something to preserve the house. Mr. Randle stated the main interest people had with the house was with developers. He stated that because the house sat in the middle of 5 (five) acres, he felt that possibly they would have to tear the house down in order to develop the property with apartments or cluster homes.

Mr. Randle stated they had made the decision as a family to see if there were some other ways in which to preserve the property. To do so, part of their purpose was to move, but not leave the property. Mr. Randle stated they also purchased the property at 800 Mill Run on the corner, previously used as a guest home, had a swimming pool, and were going to convert it so that he and Mrs. Randle could move into that home and still be contiguous to the property.

Mr. Randle stated he wanted to address that because he knew there were some questions as to what exactly would be taking place. First he wanted to assure his neighbors that there would not be any wild parties or too much noise going on because he and his wife would be living right next door.

Mr. Randle stated they had come up with their own list of questions based on some of the personal events they had over the last 29 years. Mr. Randle stated some of them had been fairly sizable. He stated they had not had any commercial events, but had had some charitable events, some with as much as 200 – 300 people. He stated that meant that parking was all up and down Tyler Road and down Mill Run, and as a result, they knew that was a bit of inconvenience, so they decided that parking would be prohibited at the house and instead be shuttled down to Shades Mountain Independent Church. Mr. Randle stated their parking lot was about a block and a half away. Mr. Randle stated they had received not only permission, but were welcomed to accommodate to have their parking shuttled there at the church. Mr. Randle stated that actually they would have probably less parking there than in the past.

Mr. Randle stated the second thing was: what were they going to do at the Hoover House? Mr. Randle stated they were still studying this. Mr. Randle stated this was not an effort to see if they couldn't go into a business. Mr. Randle stated that if they made enough money from these events, primarily weddings, as far as income producing, and they broke even, he would be as happy as he could possibly be. Mr. Randle stated this was not being done to be a big commercial event house. Mr. Randle stated they had tested it a couple of times, not for profit, to see how it would go, and things had gone very smoothly. Mr. Randle stated again they did not have detailed plans yet, and were still learning themselves on how they could go about doing this. Mr. Randle stated that he and his wife would not be doing anything but living next door to the house because they had family that would be overseeing the operation. Mr. Randle stated they did not plan on providing anything in connection with activities that would go on there other than the venue itself. He stated everything else would be out sourced and letting professionals, such as wedding planners, handle the events themselves.

Mr. Randle stated those were most of the things he had heard that people were interested in and if anyone else had a question, he would be happy to answer. Mr. Wood asked if anyone in the audience had a question. Ms. Julia Christopher, 2240 Mill Run Circle, stepped to the podium to address her concerns. Ms. Christopher stated she had been concerned since she received the notice regarding this case because she felt the best adjective of the neighborhood was the word "quiet". Ms. Christopher stated she had heard some noise from the Randle's past events.

She stated that noise was her main concern, concerned that it would take away from the value of her property, concerned about the curb appeal of the neighborhood with cars lined up and own the street. She stated she was the type of person who would like guarantees with something in writing, regarding parking, specific details about the events, such as when they would take place, the hours of the events, no parking signs put up, and if so, how would that be enforced?

Mr. Mike Mueller, 2260 Tyler Road, stated he was the owner of this address as well as resided at 2263 Old Tyler Road, so he was right across the street from the Hoover/Randle House. Mr. Mueller stated with due respect to Mr. Randle, he was at this meeting to voice his objection to this case as a resident in this neighborhood. He stated this was a residential neighborhood, not a commercial one. He stated he shared the same concerns as the previous resident, Ms. Christopher. He stated he didn't know how this was going to work out, but he didn't want to see it happen at all. He stated also that the last thing he wanted to see was a business come in next to his home. He asked also about alcohol and if it would be served. Mr. Mueller stated he felt before the city did anything about this case, they should look at this case really hard and ask a lot of questions and get input with the public to see what they think.

Mr. Mueller stated, too, that he felt the Hoover/Randle House was a beautiful place, should be preserved and should be enjoyed by a family. He stated he didn't think it should be commercialized. He emphasized he had been in the Bluff Park neighborhood since 1972 and was living in peace at his home at Tyler Road and wanted it to stay that way. He stated he was a Hoover citizen and asked for the Planning Commission to respect his position of objecting to this case and keeping it residential.

Mr. Wood asked Mr. House, House Consultants, to read his list of restrictions concerning this house, which might answer some of the residents' questions.

Mr. House then read the list of restrictions concerning the Hoover House:

- 1. Event occupancy shall not exceed 99 people and all event activities shall be limited to the first floor of the building.***
- 2. All event parking shall be limited to the Shades Mountain Independent Church parking lot, as stipulated in the parking agreement. Shuttle bus service between the church parking lot and subject property shall be provided for all events. Parking may also be provided on the adjacent lot 9 owned by the applicant and in other locations on the subject property permitted by the Hoover Fire Marshal. Parking shall not be permitted on any public street right-of-way.***
- 3. Events shall not commence before 10 a.m. and shall end no later than 10 p.m.***
- 4. The performance of live music shall be limited to inside the building or on the covered patio.***
- 5. This conditional use shall be specific to the Randle family. The conditional use shall expire at such time as the Randle family transfers ownership of the property or management of the event enterprise.***

Mr. Wood asked if anyone else in the audience would like to speak. Mr. Brice Fewell, 2256 Tyler Road, stated he lived directly across the street from the Hoover/Randle House. Mr. Fewell stated his family had lived in their current residence for about 25 years. Mr. Fewell stated he didn't know the Randle's, but in the course of years gone by, the Randle's had had events at their home in which he had never witnessed a problem at all. He stated the Randle's had done a beautiful job preserving the home and gardens; however, he was concerned about the traffic. He stated the traffic on Tyler Road was already a problem because people travel well past the speed limit. He stated Tyler Road carried a lot of emergency vehicle traffic, with ambulances and fire department vehicles. Mr. Fewell stated he was concerned about who would monitor and handle the problems that were going to occur with a crowd of people when they had events. He stated that along with the "nice" people, who would deal with those that were angry, drunk, impatient, or upset and in a negative mood for some reason or other. Who would referee those kinds of problems. Mr. Fewell said he understood the Randle's were going to live in the corner house, but still, he didn't think they could monitor this all the time without some kind of full time and professional help.

Mr. Tadd Parker, 2256 Tyler Road, stated that traffic and parking along the street was a big concern for him as well. He wanted to state his objection and thought it was a bad idea. He also was glad to see that the conditional use did not travel with the deed, so that if they decided to sell the property, then the conditional use goes away.

Ms. Natalie Stinson, 812 Mill Run Lane, stated she lived right behind the Randle's, and had been there for a little over two years. She stated they had a 3 year old son and one of the main reasons they bought this house was because of the Hoover House. There were trails behind the home and the Randle's didn't mind neighbors walking the trails. Ms. Stinson stated she didn't want another apartment complex, abandoned property, or the property split up four ways for four different homeowners to live. She stated she wanted people like Barbara & Ed Randle for her neighbors and she felt like Mr. Randle was a man of his word. She stated she would like for the restrictions to be upheld and didn't want a lot of traffic or noise, either, but didn't want to see anything else happen to this home.

Mr. William Elledge, 2258 Tyler Road, stepped to the podium to say he, too, lived across the street from the Randle's. He said he had been in his home since Mr. Hoover was still there in 1972 and had enjoyed Bluff Park. He stated they were in the house they had saved and worked for. Mr. Elledge stated one of his major concerns was the valuation of his property because of the commercial aspect coming into the residential neighborhood. He stated also that safety was a large factor of concern with the traffic on Tyler Road. He said Tyler Road was a very dangerous place.

Mr. Wood asked Mr. Randle to step back to the podium. Mr. Wood explained to Mr. Randle what he had heard so far was the neighbors did not seem to be too objectionable, however, he felt they might be a little afraid of what might happen in the future. Mr. Wood asked Mr. Randle what he thought about maybe continuing the case, getting with his neighbors, and seeing if he could come to a compromise. Mr. Wood stated he knew he would not be able to compromise with everybody, but he might come up with a better solution to where it would fit into the neighborhood better than what has been presented tonight. Mr. Wood explained to Mr. Randle he would have to request a continuance, and he might could invite some of these folks into his house, meet his neighbors and see if there was anything they could come to an agreement on. Mr. Wood stated this was just a suggestion.

Mr. Randle stated he and his family were prepared to do anything they needed to do to make this as acceptable to as many people as possible. Mr. Randle stated he would like to address a couple of things that have been brought to his attention and maybe these could be resolved tonight.

Mr. Randle stated first of all, one of the reasons they voluntarily self-imposed the parking was it was legal to park on the road back there where it was a turn lane in front of the house. Mr. Randle stated it was a public street and people parked on it. Mr. Randle stated he never liked people parking on the street and joined the neighbors' concerns about the traffic on Tyler Road. He stated his home sat right on the highest peak between east and west and he had seen people go down the road much faster than the speed limit. Mr. Randle stated what he proposed was having security at every event that is held there. There would be multiple reasons for this. One reason would be to have somebody's presence there and hopefully, it would slow the traffic down coming in both directions. Mr. Randle stated they wouldn't dare have an event with people parking on the road because they had done it in the past and it had worried him to death. For that reason, they had worked out the cross-parking agreement with Shades Mountain Independent Church and he said there would be no exceptions to that.

Mr. Randle stated that in response to the value of the property, he couldn't debate that except to say that they had spent a large sum of money on the house and there were 5 (five) acres under care. Mr. Randle said they would continue to care for it as long as they live there and this was the second time in 29 (twenty-nine) years they've put forth an effort to try to preserve the property.

Mr. Randle stated this group would probably be hearing about this house again if the house went up for sale because he felt certain if developers purchased it, he didn't feel the original house would be able to be kept since it was in the middle of the five acres, and most likely would have to be subdivided. Mr. Randle stated he didn't know this for sure, but certainly that was a possibility. He stated he wanted to delay this as long as he possibly could. He stated he was 13 years older than his wife and they were planning on building a house that she could stay in until she passes away. He said he would probably double the value of the house on the corner of Mill Run and Tyler Road simply because they were going to live there and they wanted it to be nice. He said he wanted to be able to walk across this property and keep it maintained with the gardens. He said he planned to name it the Hoover/Randle House and Garden. He stated it was a big task to take care of all of this property and was pretty expensive.

Mr. Randle stated they planned on maintaining all of that which he felt would bring the values of homes related to this area as it has up until now and actually keep the values where they were and hopefully enhance them. Mr. Randle emphasized again he joined neighbors in their concerns, wanted to be a good neighbor and would continue to be a good neighbor. He assured everybody that they wanted to bring people a lot of pleasure. Mr. Randle assured that this was not going to be a honky-tonk or a place with a lot of big time parties. Mr. Randle stated if they just broke even and paid the expenses which were fairly sizable, he would be happy.

Mr. Randle explained last, but not least, when he was gone, what would happen. Mr. Randle stated that he put the stipulation voluntarily into the conditional use restrictions that if the house was sold, the new owners would have to come through this body again to ask permission for whatever they might want to propose. Mr. Randle stated this conditional use ended when the Randle ownership ended.

Mr. Randle explained that he had had several visits on numerous occasions from city officials from Building Inspections, the Fire Marshal and the Fire Chief to make sure that the interior of the house would meet the handicap requirements that came along with doing something like this.

Mr. Randle thanked the Planning Commission for hearing the case and stated he felt this was the best shot they could come up with for preserving the property and hopefully to continue being an asset to the City of Hoover.

Mr. Jim Terry, 2250 Mill Run Drive, and wife, Darcy, stated he was present at the meeting to speak to the Planning Commission to urge them to understand the value of preserving the Hoover House. Mr. Terry stated there really wasn't a lot of market for people who were willing to take a historical house like this one and preserve and maintain it the way that the Randle's have done.

Mr. Terry stated it was a really important part of the founding of Hoover. Mr. Terry stated the man who built this house and built what became Green Valley Country Club and really got the whole city going was very important to preserve it. Mr. Terry stated it was great that the Randle's have chosen twice to do this. Mr. Terry stated they were not asking the City of Hoover to buy it and he appreciated the value of it. Mr. Terry stated he was an architect and his father, Evan Terry, was one of the draftsmen who worked on the design of this house. Mr. Terry stated there wasn't a whole lot we had that was old in this city, but this house was one. Mr. Terry stated the Randle's had done a great job of maintaining it. Also, he felt that parking at the church was a very reasonable solution. Mr. Terry stated if it worked for the art show, he felt it would work for this venue. Mr. Terry stated that he was concerned about the idea of adding "No Parking" signs on Mill Run on the streets. Mr. Terry stated there were lots of neighbors there who have events at their houses where they invite their guests to park on the street. Mr. Terry stated this happens multiple times per month and he felt forcing the other neighbors not to be able to park on the right of way would be a problem. Mr. Terry stated he felt that Mr. Randle's commitment to shuttling from the church was a good solution. Mr. Terry says he has lived in the neighborhood for 17 (seventeen) years and said he heard the high school band practicing much more than he ever heard anything from the Randle property. Mr. Terry stated he was not concerned about the traffic on Tyler Road generated from a venue that could house only 99 (ninety-nine) people, but that was about a tenth of what they had during some church events and did not think the traffic would be increased that much particularly because they were doing parking and shuttling from the church.

Mr. Terry emphasized again what great neighbors the Randles had been and what a great thing this home had been for the City of Hoover and felt it did fit a need. Mr. Terry stated he had been to similar venues all around the Birmingham area with shuttle type parking and he felt that he didn't really see the problems and/or fears that some of his neighbors had voiced. Mr. Terry stated with all due respect to his neighbors, he felt this was a good deal, not a bad one.

Mr. Randle came back to the podium and asked if they were complete with anybody who wanted to speak. Mr. Phillip Krunk, 2225 Mill Run Circle, wanted to also echo his support for this project and felt it may be one of the few routes to preserving the property. Mr. Krunk stated he had full confidence in the Randle's. Mr. Krunk wanted to clarify the 99 (ninety-nine) person occupancy would expire at the 10 p.m. timeframe and there would be no overnight stays where rooms could be rented out by renters of the venue. Mr. Krunk stated that was his understanding. Mr. House agreed. Mr. Krunk also added that by reference R-1 zoning adopts E-1 conditional uses and wanted to confirm that we were at the point where those conditional uses listed under

that ordinance had been met for this type of facility. Mr. Krunk stated he wanted to know if it complied with conditional use requirements. Mr. Wood stated they would get him an answer.

Mr. House explained during the pre-meeting work session that E-1 conditional uses do not specifically mentioned event venues but several of the uses mentioned were art gallery, museum, things of that nature, were very similar to that use, and because of the unique nature of this property, the limitations that were recommended to be placed on it, this venue would comply with being similar or the same as at least one or two of those numerated conditional uses.

Mr. Randle stepped back to the podium and asked for the Planning Commission to call for a vote. Mr. Pate spoke up and stated he had heard Mr. Randle's request and said he had learned some new things about the project. He learned Mr. Randle would have security guards at the events, for which he didn't know that before. Mr. Pate stated the opposition that he had heard had been very gracious opposition which was unusual, so given these things, even though Mr. Randle wanted a vote at this meeting, he was going to make a motion to continue the case and ask Mr. Bob House to coordinate a meeting between the Randle's and the neighbors in the neighborhood and see if they couldn't reach a compromise. Mr. Bakane seconded the motion. On voice vote, the motion was approved unanimously to continue the case until the March 14, 2016, meeting.

Mr. Wood announced to the audience the case had been continued until the March 14, 2016, 5:30 p.m., meeting and if anybody was interested in the case, to go ahead and mark it on their calendars for that date and time.

8. **Z-0216-01** – The Hoover City Council is requesting to **rezone** approximately 273 acres located south of I-459 between Preserve Parkway and Patton Creek Shopping Center from R-4 (Multi-Family District) to C-2 (Community Business District) and R-1 (Single Family Residential). This property is owned by United States Steel Corporation; William Paul Glass and Sherry Barrington; Meade Whitaker, Sr. Living Trust; and Ina P. Ballenger.

Approved

Mr. Wood announced Mr. Bob House would make the presentation of this case for the city. Mr. Robert (Bob) House, House Consultants, stated he was the City of Hoover's Planning Consultant and his comments tonight were in response to the City Council initiating hearings for considering rezoning of the subject property. Mr. House stated his comments were to be considered a preliminary report on this matter.

Mr. House stated the subject property was located between I-459, bounded by I-459 to the north and Patton Creek Shopping Center to the east and Stadium Trace and commercial development associated with Stadium Trace to the west by topographic ridge to the south which separated it from property which fronts and has access to Highway 150. Mr. House stated there was no access from Highway 150 to the subject property although a sole access had been proposed to be parallel to the highway.

Mr. House stated the subject property had been zoned R-4 (Multi-Family District) for many years and believed it was zoned R-4 back in 1984. Mr. House stated that even though there had been a couple of thousand apartment units constructed in the city during that time, this property had yet to be developed for apartments.

Mr. House stated the land use pattern in the area had changed since the property was approved

for R-4 zoning. Mr. House explained the Highway 150 corridor was just beginning to develop and there was a lot of vacant land along Highway 150. Mr. House stated that is no longer the case.

Mr. House stated the corridor is now saturated with commercial development with very little vacant land left for commercial use along that highway and this piece of R-4 property has been vacant for nearly 30 (thirty) years.

Mr. House explained that the City of Hoover feels, because of those reasons, the R-4 (Multi-Family District) zoning was no longer the most appropriate use for the property, but that the C-2 Commercial zoning may be the most appropriate zoning classification based on the Planning Commission's consideration and evaluation.

Mr. House further explained that the City of Hoover commissioned a Comprehensive Plan in 2003 which studied the land use of every parcel in the city, including these parcels, and recommended that this property be used for a mixture of commercial uses. This plan, prepared by a team of professional planning consultants, and included Mr. House, made a recommendation of 3 (three) different uses for the property.

Mr. House stated the three recommendations were for straight commercial development on the Patton Creek Shopping Center end as well as the Stadium Trace end, mixed use development for a portion of the interior property and live/work use for a portion of the interior property. Mr. House stated the mixed use category would include any combination of commercial uses as well as residential above the first floor. The live/work land use category was commercial on the first floor with residential above it. Mr. House stated none of those uses recommended in the plan could be constructed in the R-4 District as they all required commercial use. Mr. House explained 2 (two) out of 3 (three) of those uses recommended in the plan could be implemented in the C-2 District, those being the straight commercial use and the mixed use. Mr. House stated the live/work use could not be constructed in C-2 because it required some residential component which was not permitted in C-2. Mr. House emphasized that C-2 was the most similar zoning category that the city has when implementing the Comprehensive Plan related to the property.

Mr. House stated the Comprehensive Plan also recommended a public road be constructed from Stadium Trace to Patton Creek Shopping Center. Mr. House stated they didn't feel there was any concern about land use compatibility because of the high ridge between Hwy 150 and I-459 which has heretofore been an accurate buffer between those uses and those corridors and will continue to do so. All of the subject property was located north of the ridge on the property which fronts Hwy 150 which is located south of the ridge. Mr. House stated the City Council had initiated this request to consider the rezoning of the subject property by the Planning Commission.

Mr. Wood asked if there were any questions from the Planning Commission or audience.

Mr. Thomas Elders, 3124 Paradise Acres, stepped to the podium to address his concerns. Mr. Elders stated he had lived at this address for 17 (seventeen) years. He stated the only concern he had were the access points to this area. He looked at the map, pointed out a certain area and asked Mr. House where the access would be and if it would be near his cul-de-sac. Mr. House pointed out the access on the map and told him there was no plan for the access to come near his

cul-de-sac. Mr. Elders stated his second concern was the pollution of Paradise Lake. Mr. Elders stated that much of the subject property was swamp land and it was going to be difficult to build there because of the nature of it. Mr. Elders stated that when Patton Creek was built, AIG Baker polluted the lake with their construction. Mr. Wood, Chairman, spoke up to say that this was a zoning case tonight and they were not approving any particular plan at this meeting. Mr. Wood explained to Mr. Elders that any plans coming before the city would always instigate an erosion control plan so the city was aware of the sensitive area and felt that since they knew a mistake was made with Patton Creek with some mud getting loose, he felt sure they would put some very stringent measures in place to take care of this in the future. Mr. Elders added that he wanted to emphasize that he didn't want his cul-de-sac or Paradise Parkway to be an access point into this property.

Mr. Bob House stepped back to the podium to say he had failed to mention earlier that a small portion of the property currently zoned R-4 was recommended for R-1 zoning. Mr. House pointed out on the map the area shown in blue was proposed for R-1 zoning because it did have access to Paradise Lake Drive. Mr. House stated commercial zoning with access to that drive would not be appropriate. Mr. House wanted to clarify also that sole access to the property would be from Patton Creek Shopping Center and Stadium Trace. Mr. House stated there would be no connection to the Highway 150 corridor. Mr. House stated the City of Hoover hired a civil engineer to study this issue several years ago and he came to the conclusion that it was not feasible because of the topography to build a road up and down off the ridge in a practical manner. Mr. House stated the only access would be from the east and the west.

Mr. Andrew Forte, 1122 Magnolia Run, Hoover, AL, 35226, stepped to the podium to say he supported the rezoning of this property. He stated that he and his family built in a neighborhood just 500 yards to where this came out on Preserve Parkway in Magnolia Grove.

Mr. Forte stated he found out about this whole piece of property in the midst of them building their home and needless to say he was very disappointed in the property being zoned multi-family. Mr. Forte stated they were concerned about several things, mainly the traffic on Preserve Parkway, their property values, and concerned about how many children would be put into Hoover City Schools. Mr. Forte stated he had talked with dozens of residents in Lakecrest, the Preserve, Birchtree, and his neighborhood and had yet to find one person who was in favor of apartments at this location. Mr. Forte stated ideally he would like to see it all single family residential, but he realized that might not be doable. Mr. Forte stated he drove the parkway every day and couldn't imagine what putting 800-900 apartments there would do to traffic. Mr. Forte stated he would like to encourage the Planning Commission to change the zoning tonight and they would certainly have a lot of people in favor of the change.

Mr. Jamie Cowden, US Steel representative, 610 Preserve Parkway, Ste 200, Hoover, AL, 35226, stepped to the podium. Mr. Cowden stated they were one of the property owners, and as everybody on the City Council knew, they were a very large land owner in the City of Hoover. Over the years, Mr. Cowden explained that US Steel had added tremendous value to the city through their developments to include The Preserve, Trace Crossings, and Ross Bridge. He stated US Steel had been a good corporate citizen in some of these communities in which some Planning Commission members lived.

Mr. Cowden stated that over the last six months, they had worked diligently with the city engineers. They had worked with the Planning Commission for approval of a preliminary plat to develop this property for its' multi-family use which was a permitted use under current

zoning, which was R-4. Mr. Cowden stated this zoning had been in place for over thirty years and during the last six months, US Steel had appeared before this board twice now requesting approval of its' plat. Mr. Cowden stated additionally, their attorneys and their engineers had met with the city and its' engineers on a number of occasions and had incurred significant expense to make the changes requested by the city to its' plat. Mr. Cowden stated they had jumped through a lot of hoops to address the issues raised by the Planning Commission and the city engineers to come up with the use for what was allowed in the permitted current zoning. Mr. Cowden stated at no time did the Planning Commission or staff mention the possibility of rezoning the property. Mr. Cowden stated at no time was it brought to their attention that it was possible that this property would be considered for rezoning. Mr. Cowden stated that US Steel was surprised to read the notice that came in the mail in January. Mr. Cowden stated he was shocked to get a blue card in the mail regarding the rezoning and they were extremely disappointed that the city would attempt to usurp their vested legal rights in their property. Mr. Cowden stated that was beyond belief that the city would undertake a rezoning of this magnitude and this impact without even so much as a phone call to the property owners to which the property was being rezoned. Mr. Cowden stated that US Steel objected to the city's plans to rezone its' property from R-4 to C-2.

Mr. Rodney Van Dyke, 325 Paradise Lake Lane, stepped to the podium, and stated he lived very close to the ridge. He stated his question was what type of businesses could go in the C-2 zoning district. He wanted to know if there would be opportunity to evaluate if something could come in there that would involve heavy equipment, truck terminal, or this type of business because noise was a big concern. He stated his was a very quiet neighborhood and that is why he chose to move there.

Mr. Mark Cartee, 305 Paradise Lake Lane, stepped to the podium to say that he did commend the city for moving away from an R-4 zoning to a C-2 zoning. He stated he was a little bit concerned and confused about what C-2 stood for. Mr. Cartee stated they had already been before this commission regarding some matters on the other side of the property. Mr. Cartee stated his family had been in development for years and he was familiar and was all for progress and development, but they had to be very, very careful that they didn't impede on the residents with commercial property.

Ms. Lauren Honeycutt, 729 Restoration Drive, stepped to the podium to ask a question about C-2. She said she understood Mr. House to say it was like a mixed use with work on bottom and live on top, so she wanted to know if that could include apartments or would it just be condos. Mr. House stated that Commercial district was Community Business District designated as C-2, for which permitted all retail uses that you currently see up and down Highway 150 and Highway 31. Mr. House stated most of the properties are commercial along those two corridors and are zoned C-2 (Community Business District). Mr. House stated this included a full variety of grocery stores, big box uses. Certain uses require conditional uses as further approvals such as gasoline service stations, auto repair, and automotive sales. Mr. House added that it permitted a wide variety of retail uses, but no truck terminals. However, Mr. House added all retail uses did have truck delivery.

Ms. Angela Lamb stated she was present to represent her mother Rebecca Carmen, who lived in the Lakeview neighborhood. She stated their concerns were drainage in the area, and asked what the setback requirements were when building on commercial property. She asked about the coal mines that were located on this property and remembered the previous plan was to be

very careful when building over these so as to only put parking lots over the areas that were unstable enough they could collapse. Ms. Lamb asked if this land was stable enough to support commercial property and might it impact the land at Lakeview if they put that much weight on the land.

Mr. Wood asked Mr. Don Reilly, Director, Building Inspections to answer these questions. Mr. Reilly answered there were setbacks and as far as construction or building over a mine, engineering would have to be done, but you could not construct a building over an abandoned mine. Mr. Reilly added also, with the commercial construction, that there would be buffers that would take place and would be more restrictive than residential. Mr. Reilly stated there would be a better blend for the commercial construction.

Mr. Meade Whittaker, 4329 Old Brook Trail, Mountain Brook, AL, 35243, explained he was one of the property owners and was at the meeting on behalf of himself, his sister, who was another property owner who lived out of town, and on behalf of his late father's trust, which was another property owner. Mr. Whittaker expressed that they were adamantly opposed to this rezoning and would vigorously oppose the rezoning. Mr. Whittaker stated they had not requested this rezoning, did not want the rezoning, and had no reason to ask for the rezoning. Mr. Whittaker stated he was just as shocked as the other fellow property owner was to receive the zoning notice in the mail without any contact or request for a meeting from anybody in the city.

Mr. Whittaker stated he felt it was virtually without precedent to rezone property, particularly with a magnitude like this, without the consent of the property owner. Mr. Whittaker stated he did not consent. Mr. Whittaker stated there was no legitimate reason for this rezoning.

Mr. Whittaker stated he would like to comment on a couple of things that Mr. House had mentioned in his proposal on behalf of the City Council. Mr. Whittaker stated the reason the property had been vacant was in large part because the interstate blocked major access to the heart of all these properties. Mr. Whittaker stated he felt it was a little disingenuous of the city to say they were going to build a road now when that property had been available to build the road on was there all this time. Mr. Whittaker stated the road had not been built and his guess was if the city had built the road, they wouldn't be there tonight, because then it would've been developed for commercial zoning.

Mr. Whittaker stated he would like to share another bit of history that many people might not remember. He said he remembered several years ago when the owners of the Patton Creek Shopping Center contracted with him to sell their property for an expansion of the Patton Creek Shopping Center which would have required a rezoning to commercial because it was multi-family. Mr. Whittaker stated they requested this rezoning and it was supported by Patton Creek to expand the shopping center, but the city refused to rezone it. Mr. Whittaker stated if the city had rezoned it, it would have been a major expansion of that shopping center, which over this period of time, would have resulted in millions of dollars of tax revenue to the city, but the city opposed the rezoning.

Mr. Whittaker stated that project could never happen, despite the fact the city thought that a road parallel to the interstate could be connected to Chapel Lane. Mr. Whittaker stated the last time he looked at Chapel Lane, it was pretty elevated at that point. Mr. Whittaker said in his opinion, the city did not have the money to (1) build the road and (2) the several million dollars it would take to totally re-engineer Chapel Lane at that point and to build the bridge across the creek. Mr.

Whittaker said however, at the time the rezoning was requested for the expansion of Patton Creek Shopping Center, a bridge across the creek at that point was entirely feasible.

Mr. Whittaker added this could not happen anymore. Mr. Whittaker stated the road could only be connected from one end and the city had yet to come up with a plan to build that road.

Mr. Whittaker said it seemed to him that if the property owners wanted to develop their property for commercial uses, it would be appropriate for the property owners to come before this Planning Commission to petition for a rezoning, not for the City of Hoover to impose a rezoning on the property owners without their consent.

Mr. Whittaker added that he had a valid and enforceable contract for the sale of their property right now and was in force before this Council decided to take this action. Mr. Whittaker stated he would not want the City to take any action that would interfere with the integrity of this contract and wanted to place the city on notice, if that happened, now that there is notice, that interference would be deemed to be intentional. Mr. Whittaker stated again, they were opposed to this rezoning and asked the Planning Commission not to recommend it.

Mr. Norman Orr, 420 N. 20th Street, Birmingham, AL, stated he was an attorney and was at this meeting on behalf of the Birmingham Association of Realtors to voice this Association's opposition to this rezoning. Mr. Orr stated it was important to know that the governing documents of his association client provide that the objectives of the organization further the interest of real property ownership. Mr. Orr stated what was proposed today was absolutely against furthering the interest of real property ownership.

Mr. Orr stated that property ownership was essential to all of our liberties and what the City of Hoover was contemplating doing was in direct conflict with those interests. Mr. Orr stated that by rezoning the property without these owners' permission, the city would be depriving owners of their constitutional right for private property ownership. Mr. Orr stated that furthermore, the action would be detrimental for business development not only in the City of Hoover, but also within the greater Birmingham area. Mr. Orr stated that at a time when the City of Hoover, like many other municipalities in the area, was hungry for economic development, it was difficult to believe that the city was contemplating this action. Mr. Orr stated that the rezoning of this property without the owner's consent would not only stymie development for the City of Hoover, but also across the whole area. Mr. Orr stated that business needed stability from its government and felt that was the number one aspect that was always asked by his business clients. Mr. Orr stated they needed to be able to foresee what government regulations would impact the project.

Mr. Orr stated he felt it was important to recall the words of our forefather James Madison when he wrote in the Federalist Papers. "Great injury results from an unstable government. The want of confidence and the public counsels dampen useful undertaking. What prudent merchant will hazard its' fortunes and any new branch of commerce when he knows not but what his plans will be rendered unlawful before they are executed." Mr. Orr stated this is exactly what James Madison so many years ago was absolutely warning us of. Mr. Orr said the City was taking what those owners were putting together plans to do, their venture, and saying, "no, we are changing the rules on these owners at the last minute." Mr. Orr stated that was fundamentally wrong. Mr. Orr asked on behalf of the Association, that they take the

correct action and do not allow the rezoning of this property.

Mr. Clay Sweeney, 2700 Hwy 280, Ste 160, Birmingham, AL, 35223, stated he was an attorney for Ina Ballenger, one of the property owners. He stated that Ina owned this property for a number of years and her brother and father owned the 20 acres that was part of this property. Mr. Sweeney stated they were very much opposed to the rezoning of this property.

Mr. Arnold Singer, 613 Riverhaven Place, Hoover, AL, stepped to the podium to voice his agreement with the C-2 zoning. He stated, in his opinion, what the Planning Commission had heard at this meeting from the property owners and attorneys was not the law of the land. Mr. Singer stated over 80 years ago the Supreme Court had validated zoning and had since validated what is spot zoning. Mr. Singer stated that 273 (two-hundred seventy-three) acres was not spot zoning. Mr. Singer stated if we were going through a master-plan type procedure, it would involve rezoning the property. One couldn't change what had been built there. But, he said, here on this property, nothing had been built. That was not spot zoning. Mr. Singer stated that developing this property for commercial as opposed to residential was an important thing. Mr. Singer stated that over 30% of all the dwelling units in Hoover were multi-family dwelling units, so Hoover certainly had plenty of apartments and things had changed over the years. Apartments were now a considerable housing stock of Hoover and Mr. Singer thought the addition of a commercial zoning would be a more appropriate use of this property.

Mr. Joey Wilkins, 1605 Southpointe Drive, Hoover, AL, 35244, stated he was the attorney representing Ms. Sherry Barrington, another property owner, and voiced her adamant opposition to the rezoning. Mr. Wilkins stated his client, too, had a contract for the sale of her property for a year now in which they had been working hard to get a deal together to utilize this property. Mr. Wilkins stated this proposed rezoning would all but nullify the contract. Mr. Wilkins stated that at no time were they contacted and had no input into this process and emphasized again he was stating her adamant opposition to this rezoning.

Mr. Wood asked if anybody else in the audience or any Planning Commission member had any questions. There were none.

Mr. Wood asked for a motion. Mr. John Lyda made a motion to approve. Mr. Allen Pate seconded the motion. On voice vote, the motion was approved by all members with the exception of Scott Underwood, who abstained from the vote.

There being no further business to discuss, the meeting was adjourned.

Vanessa Bradstreet
Zoning Assistant